

REMARKS

Claims 1-7, 9-22, and 24-30 are pending in the application and stand rejected under 35 U.S.C. §112 for reciting “likely to be holding” which the Examiner finds to render the claims indefinite. More specifically, the Examiner opines that this phrase “could render the claim indefinite because the mobile device is not necessarily holding any data item. More importantly, the Applicant’s specification does not specify how “likely” to consider that the mobile device is likely to be holding the data item.” Applicants respectfully disagree.

Applicants submit that there is nothing indefinite about the objected-to phrase. The Examiner’s interpretation is correct: likely to be holding means that the mobile device is not necessarily holding any data item. As the claim language clearly sets forth, the mobile device must only *be likely* to be holding the data item. This is a simple and well understood term of the English language:

likely: adj. Having a chance of happening or being true.

The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2007, 2000 by Houghton Mifflin Company.

This is precisely the scope of the claim - keeping a record on an on-going basis of which mobile devices in said space, if any, hold or have a chance of holding the data item. This is indeed one of the inventive notions in the claimed invention - that we also keep track of those mobile devices which *are likely*, or *have a chance*, or *might*, be holding the data item, not just those that actually do hold the item. There is nothing indefinite about this term.

The Examiner further objects that the specification does not specify how likely a mobile device must be of holding the data item. Applicants submit that there is absolutely no requirement for such a hard numerical range to be specified - after all, the inventive genius does not revolve on how likely a device is to hold the data item but rather the very notion that we also track devices that are likely to be holding in addition to those actually holding the data item. Those skilled in the art can certainly decide for themselves, without undue experimentation, how likely they want a device to be holding in order to keep track of it in their particular

implementation of Applicants' invention. Should the Examiner disagree, Applicants respectfully request that the Examiner provide supporting documentation for his assertion that this term would befuddle one skilled in the art of mobile cellular telecommunications.

Applicants respectfully submit that the objected-to term "likely to be holding" speaks to the very inventiveness of the presently claimed inventions and that one skilled in the art would not in fact find this term indefinite, and thus request the Examiner to kindly reconsider and pass all claims to issue in their presently pending form.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

July 27, 2007

(Date of Transmission)

Alma Smalling

(Name of Person Transmitting)


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7/27/07

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Respectfully submitted,



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